97-84205-1

Fenning, Karl

General information about protection of trade marks...

Washington

1922

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⌙   1  040     PR1 ▾c PR1 ↔
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⌙   5  049     PR1A ↔
⌙   6  100 1   Fenning, Karl. ↔
⌙   7  245 10  General information about protection of trade marks, prints and
labels ▾h [microform] / ▾c prepared by Karl Fenning and Thomas L. Mead. ↔
⌙   8  260     Washington : ▾b G.P.O., ▾c 1922. ↔
⌙   9  300     23 p. : ▾b ill. ; ▾c 23 cm. ↔
⌙  10  500     At head of title: Department of the Interior, United States
Patent Office. ↔
⌙  11  533     Microfilm. ▾b New York, N.Y. : ▾c Columbia University Libraries,
▾d to be filmed in 1997. ▾e 1 microfilm reel ; 35 mm. ↔
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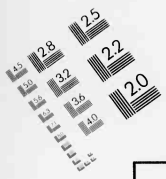
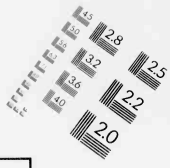
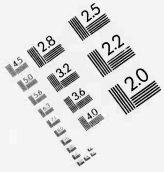
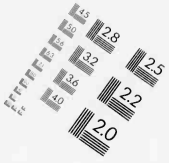

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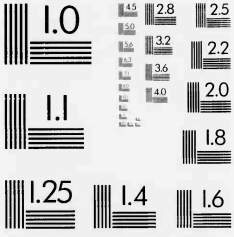

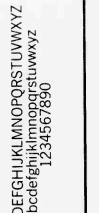

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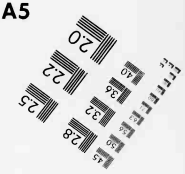
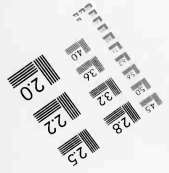
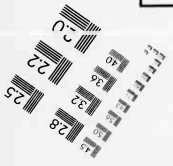
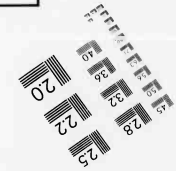

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DEPARTMENT OF THE INTERIOR

UNITED STATES PATENT OFFICE

GENERAL INFORMATION ABOUT PROTECTION OF

TRADE MARKS
PRINTS AND LABELS

(DOES NOT CONTAIN LAWS OR RULES OF PRACTICE ALTHOUGH MOST OF THEIR SUBSTANCE IS INCLUDED)

Prepared by

KARL FENNING, Assistant Commissioner of Patents
and
THOMAS L. MEAD, Jr., Examiner of Trade-Marks

BEFORE FILING APPLICATION FOR REGISTRATION EVERY TRADE MARK MUST BE USED ON GOODS IN INTERSTATE, FOREIGN, OR INDIAN COMMERCE (See page 3)

APPLICATION FOR TRADE-MARK REGISTRATION INCLUDES:

(1) **Five specimens or facsimiles of the mark** (See page 5)
(2) **Pen drawing of the mark** (See page 6)
(3) **Petition and Statement** (See page 5)
(4) **Declaration** (See page 5)
(5) **Fee of $10.**

(For forms see pages 11 to 20)

FOR PRINTS AND LABELS (SEE PAGE 22)

Additional copies of this pamphlet may be obtained from

THE COMMISSIONER OF PATENTS
WASHINGTON, D. C.

A copy of this pamphlet, with some particular section marked, when sent to one making an inquiry, is intended as a respectful answer.

TRADE-MARKS.

A **trade-mark** is a distinctive word, emblem, symbol, or device, or a combination of these, used on goods actually sold in commerce to indicate or identify the manufacturer or seller of the goods. The mark must have been used in interstate or foreign commerce, or in commerce with the Indian tribes, *before* an application for registration can be filed in the Patent Office.

A trade-mark **can not be registered** if it contains immoral or scandalous matter. No one can register a mark including the flag or coat of arms or other insignia of the United States or any simulation thereof, or of any State or municipality or of any foreign nation, or of any design or picture that has been or may hereafter be adopted by any fraternal society as its emblem. Registration is prohibited of any name, distinguishing mark, character, emblem, colors, flag, or banner, adopted by any institution, organization, club, or society which was incorporated in any State of the United States prior to the date of adoption and use by the applicant provided use by the organization was prior to use by applicant. No portrait of a living individual may be registered as a trade-mark except by the written consent of the individual. No mark which is identical with that used by another on the same class of goods, or so nearly resembles it as to be likely to cause confusion in trade, can be registered. These limitations do not prevent the registration of a trade-mark merely because it is the name of the applicant, provided it is distinctively written or printed.

Any mark which has been in actual and exclusive use as a trade-mark by the applicant during the **10 years** next preceding February 20, 1905, may be registered (see Form D, p. 12), and such a mark when once registered may be reregistered when used on other goods of the owner of the mark (see Form E, p. 13).

Trade-marks are not protected by the copyright laws.

Trade-marks in general are registered under the **act of February 20, 1905,** but no mark can be registered under this act which consists merely of the name of an individual, firm, corporation, or association, unless it is written or printed in a particular or distinctive manner, or in association with a portrait of the individual. Nor can mere words or devices descriptive of the goods with which they are used or the character or the quality of such goods be registered; nor may a mere geographical name or term be registered under the act of 1905. These marks, however, may be registered under the **act of March 19,**

1920, if they have been in actual, bona fide use as a trade-mark in interstate, foreign, or Indian commerce at least one year prior to the date of filing the application for registration. An application filed under the 1905 act may be changed to the 1920 act and vice versa.

A signature used as a trade-mark can be registered only under the act of February 20, 1905.

A mark which was registered under the act of 1881 may be registered anew under the present laws.

The office can not give advice as to whether the owner of a mark should apply for registration thereof, or whether it is already used by another. Nor can the office, in advance of the filing of an application, make searches to determine the registrability of a mark. The office, however, has a **trade-mark digest open to the public,** consisting of an alphabetical list of registered words, and a classification of symbols, birds, animals, etc., as well as a set of trade-marks arranged according to the goods with which they are used. It is advisable to search here before adopting a trade-mark so as to avoid conflict. The office has a card index of articles of commerce indicating their classification in the 50 **classes of goods** which have been established under the law. (See p. 21.)

Corporations wishing to prevent others registering their names as trade-marks may record their **articles of incorporation** in the Patent Office. The charge for such recording is $1 for 300 words or less, $2 for over 300 and under 1,000 words, and $1 for each additional 1,000 words or portion thereof.

Foreigners (see Form H, p. 13) must apply for and secure registration of their trade-marks in their home countries before registration can be effected in the United States, and only those whose home countries give reciprocal rights to United States citizens can register. Some person in the United States must be designated to receive notice. A foreigner having a manufacturing establishment in the United States, although living abroad, may register any mark actually used on products of such establishment in the same way as if living in the United States. (See Form G, p. 13.)

The office, ordinarily, does not pass upon the applicant's right to use the mark, but determines only the right to registration. Registration does not create the right to use the mark but gives prima facie right to prevent others using it. Ownership of a trade-mark arises from its use, so it must be used *before* it can be registered.

An applicant does not lose any common law right he may have by applying for registration of his trade-mark.

Registration gives prima facie evidence of ownership, the right to sue in the United States courts with increase of damages and destruction of infringers' labels, etc., together with the right to prevent importation of goods bearing an infringing mark.

On complying with regulations of the Treasury Department and filing there a certified copy of a registered mark the collectors of customs will prohibit importation of foreign goods copying or simulating the mark.

Many foreign countries will not register a mark for a citizen of the United States unless it is registered in the United States Patent Office.

The law makes no provision for the registration of a trade-mark by *joint owners* unless they apply as a firm.

The registration of a mark protects not only that mark but its equivalent title in appearance or a word like it in sound.

A registrable mark is one used with merchandise. The law makes no provision for the registration of marks used only in connection with service, such as insurance, bonding, banks, collection agencies, laundry work, cab service, and the like.

The mere names of varieties of fowls, animals, fishes, and vegetation can not be registered as trade-marks; e. g., anyone raising Jersey cattle or Fultz wheat has a right to sell the natural increase thereof under the same name.

The use of a registered mark on new articles of a kind similar to those named in the registration is generally protected, but a complete new application covering such goods may be filed. All the goods in a single official class on which the mark has been actually used may be included in one application.

The Patent Office will not pass favorably on an application for registration of a trade-mark for a *meat product* until at least one of the labels filed in this office has been stamped "Approved" by the Bureau of Animal Industry, Department of Agriculture.

The presence of a *guarantee serial number* from the Bureau of Chemistry, Department of Agriculture, is not required.

Applicants are advised to employ competent **attorneys** in all trade-mark matters.

An attorney may be appointed only by written power of attorney (see Forms J and K, pp. 13,15) filed in each case and signed by the applicant. Thereafter correspondence will be held with the attorney only. A double correspondence with an applicant and his attorney, or with two attorneys, will not be permitted.

Powers of attorney may be revoked upon application to and approval by the commissioner, and when so revoked the office will communicate directly with the applicant or another attorney appointed by him. An attorney will be promptly notified of the revocation of his power. An assignment will not operate as a revocation of the power previously given, but the assignee may be represented by an attorney of his own selection.

Applicants and attorneys will be required to conduct their business with the office with decorum and courtesy. Papers presented in violation of this requirement will be returned.

Pending applications are preserved in secrecy until publication. No information will be given, without written authority, respecting any application for a trade-mark.

Protection of the trade-mark law extends throughout continental United States, *Alaska, Hawaii*, and the *Canal Zone*, and, upon compliance with certain regulations, to the *Virgin Islands, Guam, Porto Rico*, and the *Philippine Islands*.

Printed copies of registered trade-marks may be procured for 10 cents each from the Commissioner of Patents by giving the number and date of registration and name of the owner.

Express charges, freight, postage, and all other charges on matter sent to the Patent Office must be *prepaid* in full; otherwise it will not be received.

The personal attendance of applicants at the Patent Office is unnecessary.

All business with the office should be transacted in writing and all letters addressed to the "Commissioner of Patents, Washington, D. C."

A SEPARATE LETTER SHOULD BE WRITTEN IN RELATION TO EACH DISTINCT SUBJECT OF INQUIRY OR APPLICATION. ASSIGNMENT FOR RECORD, APPLICATIONS, AMENDMENTS, AND ORDERS FOR COPIES OR ABSTRACTS MUST BE SENT TO THE OFFICE IN SEPARATE LETTERS.

A complete application for registration of a trade-mark comprises:

(1) Five **specimens or facsimiles** of the mark as *actually already in use* on the goods in interstate or foreign or Indian commerce.

(2) A pen **drawing** on Bristol board of the trade-mark. (See Form p. 14.)

(3) A **petition and statement** (which may be combined) addressed to the Commissioner of Patents and signed by the owner of the mark, whether individual (see Form A, p. 11), firm (see Form B, p. 11), corporation or association (see Form C, p. 12), requesting registration and giving the full name, residence, postal address, place of business, and citizenship of applicant (if a corporation, the place where incorporated), indicating the kind of goods on which the mark is used, with the title of the official class (see p. 21) including such goods; the date the mark was first used, and the manner in which it is applied to the goods. If the mark is to be registered under the act of March 19, 1920, the statement should so indicate. (See Form F, p. 13.) The office may require the statement to include a description of the mark, but this is usually not necessary. If registration is asked under the 10-year proviso use Forms D or E, pages 12,13.

(4) A verified **declaration** that the applicant is the owner of the mark and has the exclusive right to use it, and that it has actually already been used in interstate or foreign commerce, and that the

drawing shows the mark as actually already used. (See Forms L, M, N, P, pp. 15,16.)

(5) A **fee** of $10.

The application should be plainly written on widely separate lines and on but one side of the paper. All interlineations and erasures must be clearly referred to in marginal or footnotes on the same sheet of paper, and a wide margin must always be reserved upon the left-hand side of each page.

A **drawing** signed by the owner or, in his name, by his attorney must be furnished, showing every feature of the trade-mark in the form appearing on the specimens or facsimiles, and made with the pen only upon pure white two-ply or three-ply Bristol board, calendered and smooth. India ink alone should be used, to secure perfectly black and solid lines and letters. The Bristol board must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. All work and signature must be within this margin. One of the shorter sides of the sheet is regarded as its top. (Form p. 14.)

Send drawings flat, protected by a sheet of heavy binder's board; or rolled in a suitable mailing tube. *Do not fold.*

Applicants should employ competent draftsmen to make their drawings.

The office will furnish the drawings at cost, as promptly as its draftsmen can make them, for applicants who can not otherwise conveniently procure them.

APPLICATIONS CAN NOT BE EXAMINED OUT OF THEIR REGULAR ORDER, except as provided by the rules. Members of Congress can neither examine nor act in trade-mark cases. Applicants should not impose upon Senators or Representatives labor which will consume their time without any advantageous results.

An application will not be accepted for examination until all its parts are received.

Applications are numbered in regular order and the applicant informed of the *serial number* of his application, *which should always be given in every communication.*

All the papers embraced in the application should be attached together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application.

Applications are examined by the examiner of trade-marks, in regular order of filing, to determine whether they are in proper form and of a registrable character and also to see that registration is not prohibited by the mark of some other person. If any defect is found, applicant will be so advised with particulars and he may amend to avoid the objection. The **amendment** should be addressed to the Commissioner of Patents and should give the name of applicant, the serial number of the application, and the date it was filed. If no

amendment is filed for one year after the last official action the case will be abandoned. Amendments must clearly point out the distinction which the case presents in view of the reasons for rejection, and also show how the amendments avoid the rejection.

Every amendment must specify the exact word or words to be stricken out or inserted and indicate the precise point where the erasure or insertion is to be made. Amendments must be written on one side only of sheets of paper separate from the papers previously filed. Erasures, additions, insertions, or mutilations of the papers on file must not be made.

The applicant must request reconsideration in writing and distinctly and specifically point out the supposed errors in the examiner's action; he must respond to every ground of objection of the prior office action, and his amendment must appear throughout to be a bona fide attempt to advance the case. The mere allegation that the examiner has erred will not be received as a proper reason for such reexamination or reconsideration.

After the completion of the application *the office will not return any of the papers.* If applicants have not preserved copies of the papers the office will furnish them on the usual terms.

If an application under the act of February 20, 1905, is found allowable the applicant is notified, but before registration the mark is *published in the Official Gazette* of the Patent Office. Within 30 days after the date of publication, anyone who feels that he would be injured by the registration of the mark may file an **opposition** to its registration, for which a fee of $10 is charged. (See Form R, p. 17.)

If applicant asks for registration under the act of February 20, 1905, and the mark is found to be like that of another applicant and the goods on which the marks are used are alike, an **interference** will be declared to determine which applicant is entitled to register. An interference, with a mark already registered to another, will be declared if applicant can show that the mark of the registration is probably abandoned or that applicant used it before the date of the prior registration.

There are neither oppositions nor interferences with respect to marks under the act of March 19, 1920.

If, after a trade-mark is registered, anyone feels that he is injured by it, he may apply to have it **canceled**. No fee is required in a cancellation proceeding. (See Form S, p. 18.)

Interference, opposition, and cancellation proceedings are controlled by technical Patent Office and equity court rules and *demand the services of skilled attorneys for their best conduct.*

On the day issued the **certificate of registration** will be delivered or mailed to the attorney of record, if there be one; or, if the attorney so request, to the owner; or if there be no attorney, to the owner, if he so request.

Should registration be finally refused and applicant believes his mark should be registered, he may *appeal* to the Commissioner of Patents in person, and from him to the Court of Appeals of the District of Columbia. Similar appeals may be taken in interference, opposition, and cancellation proceedings.

Registered trade-marks and trade-marks for which applications for registration have been filed may be assigned, but only in connection with the good will of the business in which they are used. The **assignment** should be in writing and acknowledged according to law, and should state the number and date of the certificate of registration, or the name of the owner, the serial number and date of the application for registration. Such an assignment may be recorded in the Patent Office, and will be void as against any subsequent purchaser or mortgagee, for a valuable consideration, without notice, unless so recorded within three months from the date of the assignment. The date of record is the date the assignment is received at the Patent Office in proper form, and accompanied by the full legal fee for recording. No instrument will be recorded which is not in the English language, and which does not, in the judgment of the commissioner, affect the title to which it relates. (Forms Y and Z, pp. 19,20.)

When a trade-mark has been registered, **notice** should appear on the goods in connection with the mark, thus: "Registered in U. S. Patent Office," or "Reg. U. S. Pat. Off."

Registrations under the act of 1881 last for 30 years, and may be **renewed** under the act of February 20, 1905, for 20 years upon the filing of an application for renewal within the six months next preceding the end of the original term. (See Form T, p. 18.) Registration under the act of 1905 lasts for 20 years and may be renewed for a like period. (See Form T, p. 18.) It is not necessary to file with the renewal application either the original certificate or a certified copy hereof. If application for renewal is not filed before the registration expires a new application for its reregistration must be filed.

The owner of a trade-mark registered in the United States Patent Office on payment of $5 may have his mark certified to the **International Bureau at Habana,** and so obtain protection in the *Central and South American countries* adhering to the Buenos Aires convention of 1910. For such purpose the owner must furnish (see Form W, p. 19) (A) International money order for $50 payable to the "Director of the International Bureau, Habana." (B) Electrotype of the mark exactly as registered, no larger than 10 centimeters (approximately 3.9 inches) in either dimension. (C) Statement setting forth (1) name and address of the owner of the mark; (2) number and date of registration in the United States; (3) Spanish translation of the particular description of goods as stated in the

certificate of registration. (The office is not in a position to furnish this translation; it must always be furnished by the applicant.) (D) If color is claimed in the registered mark, 30 copies, printed on paper and reproduced in color, must be furnished.

All fees must be paid in advance in specie, Treasury notes, or national-bank notes, or post-office money orders or certified checks, payable to the "Commissioner of Patents." Money sent by mail will be at the risk of the sender. Letters containing money should be registered. *Postage stamps will not be accepted.*

On payment of the proper fee anyone may procure a copy of any record, book, paper, or drawing relating to trade-marks belonging to the Patent Office, certified by the Commissioner of Patents.

An order for a *copy of assignment* must give the liber and page of the record, as well as the name of the registrant; otherwise an extra charge will be made for the time consumed in searching for such assignment.

FEES.

On filing each original application for registration of a trade-mark	$10.00
On filing each application for renewal of the registration of a trade-mark	10.00
On filing each application for a communication to the International Bureau, Habana	5.00
On filing notice of opposition to the registration of a trade-mark	10.00
On appeal from the examiner in charge of trade-marks to the Commissioner of Patents under the act of February 20, 1905	15.00
On appeal from the decision of the examiner in charge of interierences, awarding ownership of a trade-mark or canceling the registration of a trade-mark, to the Commissioner of Patents	15.00
On appeal from the decision of the examiner in charge of trade-marks on a motion for the dissolution of an interference on the ground of noninterference in fact or nonregistrability of a mark, to the Commissioner of Patents	15.00
For manuscript copies, for every 100 words or fraction thereof	.10
For photostat copies of records:	
Size 10 by 15 inches, per copy	.25
Size 8 by 12½ inches, per copy	.15
If certified, for the certificate, additional	.25
For recording every assignment, power of attorney, or other paper of 300 words or under	1.00
Of over 300 and under 1,000 words	2.00
And for each additional thousand words or fraction thereof	1.00
For each additional trade-mark or application involved in one writing where more than one is so included or involved, additional	.25
For abstracts of title:	
For the search, one hour or less, and certificate	2.00
Each additional hour or fraction thereof	1.00
For each brief from the digest of assignments of 200 words or less	.20
Each additional hundred words or fraction thereof	.10
For searching titles or records, one hour or less	1.00
Each additional hour or fraction thereof	1.00
For a single printed copy of statement, declaration, and drawing	.10
If certified, for the grant, additional	.50
For the certificate	.25

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The Official Gazette, a weekly publication, has been issued since 1872, containing claims of all patents issued, including reissues and designs, with portions of the drawings selected to illustrate the inventions claims; illustrations of *trade-marks* published, and lists of *trade-marks*, prints, and labels registered, and decisions rendered by the courts in patent and trade-mark cases and by the Commissioner of Patents, and other special matters of interest to inventors. The Gazette is furnished to subscribers at the rate of $5 per annum. When sent abroad, an additional charge is made for the payment of postage. Single copies are furnished for 10 cents. All orders and remittances for the Gazette should be sent to the Superintendent of Documents, Government Printing Office, Washington, D. C. The Gazette is issued in monthly volumes. An index is published annually.

The *decision section* is issued separately at 5 cents each or $2.50 a year.

The **trade-mark section,** including registered labels and prints, is issued separately at 5 cents each or $2.50 a year.

FORMS.

The following forms illustrate the manner of preparing papers for applications for registration of trade-marks. Applicants will find their business facilitated by following them.

(A) PETITION AND STATEMENT FOR AN INDIVIDUAL.[1]

To the Commissioner of Patents:

William Johnson, a citizen of the United States of America, residing at *Cleveland, Ohio,* and doing business at *1300 Euclid Avenue, Cleveland, Ohio,* has adopted and used the trade-mark shown in the accompanying drawing for *canned fruits and vegetables,* in *Class 46, Food and ingredients of foods,* and presents herewith five specimens (or facsimiles) showing the trade-mark as actually used by applicant upon the goods, and requests that the same be registered in the United States Patent Office in accordance with the act of *February 20, 1905*,[2] as amended. The trade-mark has been continuously used and applied to said goods in applicant's business since *February 1, 1899.* The trade-mark is applied or affixed to the goods, or to the packages containing the same, by *placing thereon a printed label on which the trade-mark is shown.*

(Name of applicant.) (Citizenship of applicant.) (Applicant's address.) (Business address.) (Number and title of class—see classification.) (Particular description of goods.) (Earliest date of use.) (Or state other mode or modes of application.)

WILLIAM JOHNSON.
(Applicant's full signature.)

(B) PETITION AND STATEMENT FOR A FIRM.[1]

To the Commissioner of Patents:

William Johnson & Company, a firm domiciled in *Cleveland, Ohio,* doing business at *1300 Euclid Avenue, Cleveland, Ohio,* and composed of the following members, *William Johnson, Thomas James,* and *Edwin Howe,* all citizens of the United States, have adopted and used the trade-mark shown in the accompanying drawing for *canned fruits and vegetables,* in *Class 46, Food and ingredients of foods,* and present herewith five specimens (or facsimiles) showing the trade-mark as actually used by applicants upon the goods, and request that the same be registered in the United States Patent

(Firm name.) (Domicile.) (Business address.) (Name of members of the firm.) (Citizenship of members of the firm.) (Number and title of class. See classification.)

[1] See also Forms D, E, F, G, H, and J.
[2] If application is made for registration under the act of March 19, 1920, this date should be accordingly changed.

Office in accordance with the act of *February 20, 1905*,[2] as amended. The trade-mark has been continuously used and applied to said goods in applicants' business since *February 1, 1899*. The trade-mark is
(Names of predecessors, if any.) (Earliest date of use.)
applied or affixed to the goods, or to the packages containing the same, *by placing thereon a printed label on which the trade-mark is shown.*

WILLIAM JOHNSON & COMPANY,
(Firm name.)

By THOMAS JAMES,
(Full signature of a member of the firm.)

A Member of the Firm.

(C) PETITION AND STATEMENT FOR A CORPORATION.[1]

To the Commissioner of Patents:

William Johnson Company, a *corporation* duly organized under
(Name of applicant.)
the laws of the *State of Ohio*, and located at *Cleveland, Ohio*, and
(State or country under the laws of which organized.) (Location of corporation.)
doing business at *1300 Euclid Avenue, Cleveland, Ohio*, has adopted
(Business address.)
and used the trade-mark shown in the accompanying drawing for *canned fruits and vegetables*, in *Class 46, Food and ingredients of*
(Particular description of goods.) (Number and title of class. See classification.)
foods, and presents herewith five specimens [or facsimiles] showing the trade-mark as actually used by applicant upon the goods, and requests that the same be registered in the United States Patent Office in accordance with the act of *February 20, 1905*,[2] as amended. The trade-mark has been continuously used and applied to said goods in applicants' business since *February 1, 1899*. The trade-
(Name of predecessors, if any.) (Give earliest date of use.)
mark is applied or affixed to the goods, or to the packages containing the same, by *placing thereon a printed label on which the trade-mark*
(Or state other mode or modes of application.)
is shown.

WILLIAM JOHNSON COMPANY,
(Name of applicant.)

By WILLIAM JOHNSON,
(Full signature of officer.)

Secretary.
(Official title.)

UNDER 10-YEAR PROVISO.

(D) *Applicants under the 10-year proviso of section 5 of the act of February 20, 1905*, should add the following paragraph to Form A, B, or C:

"The mark has been in actual use as a trade-mark by the applicant (and applicant's predecessors from whom title was derived) for ten years next preceding February 20, 1905, and such use has been exclusive."

[1] See also Forms D, E, F, G, H, and J.
[2] If application is made for registration under the act of March 19, 1920, this date should be accordingly changed.

(E) *An applicant under the last paragraph of section 5 of the act of February 20, 1905*, should add the following paragraph to Form A, B, or C:

"Applicant is the owner of registration No. ———, of ——— effected on the ground of actual and exclusive use by the applicant of the mark shown therein on the goods recited in said registration as a trade-mark for ten years next preceding February 20, 1905, and the mark has been used by the applicant (or applicant's predecessors in business) on the articles named in the present application in interstate (or foreign) commerce (or commerce with the Indian tribes) for at least one year."

(F) ACT OF 1920.

An applicant under section 1 (b) of the act of March 19, 1920, should add the following paragraph to Form A, B, or C:

"The mark has been in *bona fide* use for not less than one year in interstate (or foreign) commerce (or in commerce with the Indian tribes) by the applicant (or applicant's predecessors in business)."

(G) FOREIGNER MANUFACTURING IN UNITED STATES.

An applicant under section 3 of the act of May 4, 1906, should add the following paragraph to Form A, B, or C:

"Applicant has a manufacturing establishment at *Cleveland, Ohio*, within the territory of the United States, and the goods on which the trade-mark claimed in this application is used are the products of such establishment."

(H) FOREIGNER LOCATED ABROAD.

A foreign applicant for registration of a trade-mark should add the following paragraph to Form A, B, or C:[3]

"Said trade-mark has been registered in *England*, No. ———, dated ———, on an application filed ———.

———, whose postal address is ——— Street, city of ———, State of ———, is designated, on whom process or notice of proceedings affecting the right to ownership of said trade-mark brought under the laws of the United States may be served."

(J) POWER OF ATTORNEY.

An applicant desiring to appoint an attorney may add the following paragraph to Form A, B, or C:

"The undersigned hereby appoints ——— ———, whose postal address is ——— Street, city of ———, State of ———, his (its) attorney, to prosecute this application for registration, with full powers of substitution and revocation, and to make alterations and amendments therein, to receive the certificate, and to transact all business in the Patent Office connected therewith."

[3] If application has been filed but mark not registered, this should be changed to state the facts.

The size of the sheet must be exactly 10x15 inches. See rule 36 (2).

This space must be thirteen inches.

Proprietor.

By.

Attorney.

This space must be eight inches.

(K) SEPARATE POWER OF ATTORNEY.

To the Commissioner of Patents:

The undersigned hereby appoints ——— ———, of ———, State of ———, his attorney to prosecute this application for registration, with full power of substitution and revocation, to make alterations and amendments therein, to receive the certificate and to transact all business in the Patent Office connected therewith.

(Signed) ——— ———.

(L) DECLARATION FOR AN INDIVIDUAL.

State of *Pennsylvania*, } ss:
County of *Philadelphia*, }

William Johnson, being duly sworn, deposes and says that he is
(Name of applicant.)
the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes himself to be the owner of the trade-mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said trade-mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by him in commerce among the several States of the United States (and between the United States and foreign nations or Indian tribes) [4]; that the description and drawing presented truly represent the trade-mark sought to be registered; and that the *specimens* show
(Or facsimiles.)
the trade-mark as actually used upon the goods.

WILLIAM JOHNSON.
(Full signature of applicant.

Subscribed and sworn to before me, a *notary public*, this *15th* day
(Official title.) (Date of
of *June, 1906*.
execution.)

[L. S.]

RICHARD JONES,
Notary Public.
(Official title.)

(M) DECLARATION FOR A FIRM.

State of *New York*, } ss:
County of *New York*, }

Thomas James, being duly sworn, deposes and says that he is a member
(Name of affiant.)
of the firm, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said firm is the owner of the trade-mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said trade-mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by said

[4] If applicant does not have commerce with foreign nations or Indian tribes, this clause should be omitted.

firm in commerce among the several States of the United States (and between the United States and foreign nations or Indian tribes)[4]; that the description and drawing presented truly represent the trade-mark sought to be registered; and that the *specimens* show the trade-mark (Or facsimiles.)
as actually used upon the goods.

THOMAS JAMES.
(Full signature of affiant.)

Subscribed and sworn to before me, a *notary public*, this *15th* day of (Official title.)
January, 1906.
(Date of execution.)

[L. S.]

HARRY BROWN,
Notary Public.
(Official title.)

(N) DECLARATION FOR A CORPORATION OR ASSOCIATION.

State of *Massachusetts*, }
County of *Suffolk*. } *ss:*

William Johnson, being duly sworn, deposes and says that he is the
(Name of affiant.)
secretary of the *corporation*,[5] the applicant named in the foregoing
(Official title.)
statement; that he believes the foregoing statement is true; that he believes said *corporation* [5] is the owner of the trade-mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said trade-mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by said *corporation* [5] in commerce among the several States of the United States (and between the United States and foreign nations or Indian tribes)[4]; that the description and drawing presented truly represent the trade-mark sought to be registered; and that the *specimens* show the trade-mark as actually used upon the goods.
(Or facsimiles.)

WILLIAM JOHNSON.
(Full signature of affiant.)

Subscribed and sworn to before me, a *notary public*, this *20th* day (Official title.) (Date of
of *February, 1906.*
execution.)

[L. S.]

WILLIAM GRANE,
Notary Public.
(Official title.)

(P) DECLARATION FOR FOREIGNER LOCATED ABROAD.[6]

United States Consulate, }
London, England. } *ss:*

John Doe, being duly sworn, deposes and says that he is the appli-
(Name of affiant.)
cant named in the foregoing statement; that he believes the foregoing statement is true; that he believes himself to be the owner of the trade-mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said trade-mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; (that said trade-mark has been registered in *England, on June 1, 1900, No. 49316*[7]) that the description and drawing presented truly represent the trade-mark sought to be registered; and that the *specimens* show the trade-mark as actually used upon the goods.
(Name of country.) (Date.) (Number of registration.) (Or facsimiles.)

JOHN DOE.
(Full signature of affiant.)

Subscribed and sworn to before me, a *United States consul*, this (Official title.)
20th day of *January, 1906.*
(Date of execution.)

[SEAL.]

RICHARD JONES,
United States Consul.
(Official title.)

(R) NOTICE OF OPPOSITION.[8]

To the Commissioner of Patents:

In the matter of an application for the registration of a trade-mark for *sewing machines*, Serial No. *1906*, filed *April 15, 1906*, by *John*
(Particular goods.) (Number and date of application.) (Name of
Doe, of *San Francisco, Cal.*, which was published on page *1746*, Vol.
applicant.) (Location or residence of applicant.) (Page,
120, No. 13, of the Official Gazette of *June 13, 1906*, I, *Richard Roe*,
volume, number, and date of the Official Gazette.) (Name of party opposing.)
residing at *No. 12 Clarke street, city of Chicago, State of Illinois*,
(Residence or location of party opposing.)
believe I would be damaged by such registration, and I hereby give notice of my intention to oppose the registration of said trade-mark.

The grounds for opposition are as follows:
(Here state the grounds for opposing registration.)

Two specimens of the mark as used by me are attached hereto.

RICHARD ROE.
(Full signature of opposing party.)

State of *Illinois*, }
County of *Cook*, } *ss:*

Richard Roe, being duly sworn (or affirmed), deposes and says that he is the party of that name mentioned in the foregoing notice of opposition, that he has read and signed the same and knows the contents thereof, and that the same is true of his own knowledge,

[4] If applicant does not have commerce with foreign nations or Indian tribes this clause should be omitted.

[5] If applicant be an association, the word "association" should be substituted for the word "corporation."

[6] In case the applicant is a firm, corporation, or association, the declaration should be modified accordingly.

[7] If the trade-mark has not yet been registered, but an application for registration has been filed in the country where applicant resides or is located, this clause should be omitted and the following substituted therefor:

"that an application for registration of said trade-mark was filed by him on the *20th day of January, 1900, in England*." (Date of filing.) (Name of country.)

[8] If the opposing party be a firm, corporation, or association, the notice of opposition should be modified accordingly.

except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

RICHARD ROE.

Subscribed and sworn to (or affirmed) before me this 23d day of June, 1906.

[L. S.] CHARLES KINGMAN,
Notary Public.
(Official title.)

(S) APPLICATION FOR CANCELLATION OF TRADE-MARK.[10]

To the Commissioner of Patents:

In the matter of trade-mark No. *1898*, registered *May 23, 1906*.
(Number of registration.) (Date of registration.)
by *Richard Roe*, of *the city of Portland, county of Cumberland, State*
(Name of registrant.) (Residence or location of registrant.)
of Maine, I, *John Doe*, residing at *No. 113 Fayette street, in the city*
(Name of party applying for cancellation.) (Residence or location
of Baltimore, State of Maryland, deem myself injured by said registra-
of the party applying for cancellation.)
tion, and I hereby apply for the cancellation thereof.

The grounds for cancellation are as follows:
(Here state the grounds for cancellation.)

Two specimens of the mark as used by me are attached hereto.

JOHN DOE.
(Signature of party applying for cancellation.)

State of *Maryland*, } *ss:*
City of *Baltimore*, }

John Doe, being duly sworn (or affirmed), deposes and says that he is the party of that name mentioned in the foregoing application for cancellation, that he has read and signed the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

JOHN DOE.

Subscribed and sworn to (or affirmed) before me this 26th day of June, 1906.

[L. S.] JOHN JONES,
Notary Public.
(Official title.)

(T) PETITION FOR RENEWAL.

To the Commissioner of Patents:

John Doe requests certificate of registration No. ———, granted to ——— on ———, which he now owns and has not abandoned, be renewed in accordance with the provisions of section 12 of the trade-mark act of February 20, 1905.

JOHN DOE.
(Address.)

[10] If the party applying for cancellation be a firm, corporation, or association, the application for the cancellation should be modified accordingly.

(W) INTERNATIONAL BUREAU, HABANA.

To the Commissioner of Patents:

Henry Thompson, whose postal address is ——— Street, city of ———, State of ———, and who is the owner of trade-mark registered in the United States Patent Office on *June 18, 1922, No. 124528*, requests that his said mark be communicated to the International Bureau, Habana.

There is inclosed the fee of $5; an international money order for $50 payable to "Director of the International Bureau, Habana"; an electrotype of the trade-mark; a translation into Spanish of the particular description of the goods as stated in said registration (and thirty copies of the mark printed on paper, reproduced in color).[13]

HENRY THOMPSON.

(Y) ASSIGNMENT OF APPLICATION FOR REGISTRATION.

Whereas ———, of the city of ———, county of ———, and State of ———, has adopted and used in his business a trade-mark for which he has filed application for registration, serial No. ——, dated ———, 19—, in the United States Patent Office; and

Whereas ———, of the city of ———, county of ———, and State of ———, is desirous of acquiring said mark:

Now, therefore, to all whom it may concern:

Be it known that for and in consideration of the sum of ——— dollars and other good and valuable consideration to him in hand paid, the receipt of which is hereby acknowledged, said ——— has sold, assigned, and transferred, and by these presents does sell, assign, and transfer, unto the said ——— the entire right, title, and interest in and to the said trade-mark and the application for registration thereof, serial No. ——, together with the good will of the business in connection with which said mark is used, and the Commissioner of Patents is requested to issue the certificate of registration of said mark to said assignee.

State of ——— } *ss:*
County of ——— }

Personally appeared before me the said ——— and acknowledged the above instrument as his free act and deed this ——— day of ———, 19—.

———,
Notary Public.

[13] May be omitted if no claim is made to color.

(Z) ASSIGNMENT OF REGISTERED MARK.

Whereas ———, of the city of ———, county of ———, and State of ———, has adopted and used in his business a trade-mark, which is registered under No. ——, dated ———, 19—, in the United States Patent Office; and

Whereas ———, of the city of ———, county of ———, and State of ———, is desirous of acquiring said mark:

Now therefore, to all whom it may concern:

Be it known that for and in consideration of the sum of ——— dollars and other good and valuable consideration to him in hand paid, the receipt of which is hereby acknowledged, said ——— has sold, assigned, and transferred, and by these presents does sell, assign, and transfer, unto the said ——— the entire right, title, and interest in and to the said trade-mark and the registration thereof, No. ——, together with the good will of the business in connection with which the said mark is used.

——— ———

State of ———
County of ——— } *ss:*

Personally appeared before me the said ——— and acknowledged the above instrument as his free act and deed this ——— day of ——— 19—.

———,
Notary Public.

CLASSIFICATION OF MERCHANDISE UNDER THE ACT OF MAY 4, 1906.

1. Raw or partly prepared materials.
2. Receptacles.
3. Baggage, horse equipments, portfolios, and pocketbooks.
4. Abrasive, detergent, and polishing materials.
5. Adhesives.
6. Chemicals, medicines, and pharmaceutical preparations.
7. Cordage.
8. Smokers' articles, not including tobacco products.
9. Explosives, firearms, equipments, and projectiles.
10. Fertilizers.
11. Inks and inking materials.
12. Construction materials.
13. Hardware and plumbing and steam-fitting supplies.
14. Metals and metal castings and forgings.
15. Oils and greases.
16. Paints and painters' materials.
17. Tobacco products.
19. Vehicles, not including engines.
20. Linoleum and oiled cloth.
21. Electrical apparatus, machines, and supplies.
22. Games, toys, and sporting goods.
23. Cutlery, machinery, and tools, and parts thereof.
24. Laundry appliances and machines.
25. Locks and safes.
26. Measuring and scientific appliances.
27. Horological instruments.
28. Jewelry and precious-metal ware.
29. Brooms, brushes, and dusters.
30. Crockery, earthenware, and porcelain.
31. Filters and refrigerators.
32. Furniture and upholstery.
33. Glassware.
34. Heating, lighting, and ventilating apparatus, not including electrical apparatus.
35. Belting, hose, machinery packing, and nonmetallic tires.
36. Musical instruments and supplies.
37. Paper and stationery.
38. Prints and publications.
39. Clothing.
40. Fancy goods, furnishings, and notions.
41. Canes, parasols, and umbrellas.
42. Knitted, netted, and textile fabrics.
43. Thread and yarn.
44. Dental, medical, and surgical appliances.
45. Beverages, nonalcoholic.
46. Foods and ingredients of foods.
47. Wines.
48. Malt extracts and liquors.
49. Distilled alcoholic liquors.
50. Merchandise not otherwise classified.

NOTE.—Class 18 was abolished February 24, 1909.

PRINTS AND LABELS.

Prints and **Labels** are artistic creations used in the sale of goods and may be copyrighted in the Patent Office for 28 years and renewed for 28 years under the copyright law of 1874. Each must name or picture or be descriptive of some particular article or class of articles, and *prior to filing application* for copyright must be originally published with notice of copyright thus: "Copyright (or Copr.) 1922 by John Smith."

The notice of copyright is notice to the public that claim is made to copyright of the artistic creation as a whole. If once published without this notice, or if registration is not applied for within a reasonable time after publication with the notice of copyright thereon, the print or label becomes dedicated to the public and will not be registered. Application for copyright may be filed by either author or owner.

A *label* must be attached to the goods, as by pasting onto the container, while a *print* can not be attached to the goods, but must be used to advertise them, such as advertisements in magazines and street-car cards.

A print or label differs from a trade-mark in that it must be descriptive of some goods, and covers all the matter appearing thereon rather than some special part thereof.

Copyright gives the owner the right to sue directly in the Federal courts and obtain damages fixed by law. The notice of copyright should appear on every copy printed.

The fee for registering either a print or label is $6, and may be returned if for any reason the registration sought can not be secured.

No drawing is required in print and label applications, but *ten specimens* are required. If the print or label is unwieldy, one original and ten photographic copies should be filed.

See forms on next page.

(I) LABEL OR PRINT FORM FOR AN INDIVIDUAL.

To the COMMISSIONER OF PATENTS:

The undersigned,.....,[a] a.....,[b] residing at.....,[c] and doing business at.....,[d] hereby applies as.....,[e] for registration of the print [or label] shown in the accompanying copies, 10 of which are furnished.

The print was first published, with Notice of Copyright thereon, on.....;[f] its title is.....,[g] and it is used [for advertising purposes for][i].....[h]

(Full signature of applicant.) .....,

Author (or Proprietor).

(II) LABEL OR PRINT FORM FOR A FIRM.

To the COMMISSIONER OF PATENTS:

The undersigned,.....,[a] a firm, domiciled in.....,[c] and doing business at.....,[d] hereby applies as proprietor, the author from whom title is derived being a citizen of (or subject of).....,[i] for registration of the print [or label] shown in the accompanying copies, 10 of which are furnished.

The print was first published, with Notice of Copyright thereon, on.....;[f] its title is.....,[g] and it is used [for advertising purposes for][i].....[h]

(Full signature of applicant.) .....,

Proprietor.

By.....,

A Member of the Firm.

(III) LABEL OR PRINT FORM FOR A CORPORATION.

To the COMMISSIONER OF PATENTS:

The undersigned,.....,[a] a corporation duly organized under the laws of.....,[k] located in.....,[c] and doing business at.....,[d] hereby applies as proprietor, the author from whom title is derived being a citizen of (or subject of).....,[i] for registration of the print [or label] shown in the accompanying copies, 10 of which are furnished.

The print was first published, with Notice of Copyright thereon, on.....;[f] its title is.....[g] and it is used [for advertising purposes for][i].....[h]

(Applicant's full name.) .....,

By.....,

President (or Other Officer).

[a] Insert name of applicant.
[b] Insert statement of applicant's citizenship, or of what ruler he is a subject.
[c] Insert applicant's residence, domicile, or location.
[d] Insert applicant's place of doing business, with postal address.
[e] State whether as author or proprietor; and if as proprietor, state also the citizenship of the author (or of what ruler he is a subject) from whom title is derived.
[f] Insert date of publication.
[g] Insert title of print or label which must appear on the copies furnished.
[h] State goods which print is used to advertise or label is used on.
[i] State citizenship of the author (or of what ruler he is a subject).
[k] State under the laws of what State or nation organized.
[l] A label application should substitute the word "on" for the words in brackets.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1922

MSH 23065

END OF
TITLE